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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,452	03/30/2004	Michael Lamsfuss	ZM337/03002	4667
27868	7590	09/15/2009		
JOHN F. SALAZAR MIDDLETON & REUTLINGER 2500 BROWN & WILLIAMSON TOWER LOUISVILLE, KY 40202			EXAMINER ELVE, MARIA ALEXANDRA	
			ART UNIT	PAPER NUMBER
			3742	
			MAIL DATE	DELIVERY MODE
			09/15/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,452

Applicant(s)

LAMSFUSS, MICHAEL

Examiner

M. Alexandra Elve

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 25-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 25-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date _____
- 6) ☐ Other: _____

DETAILED ACTION

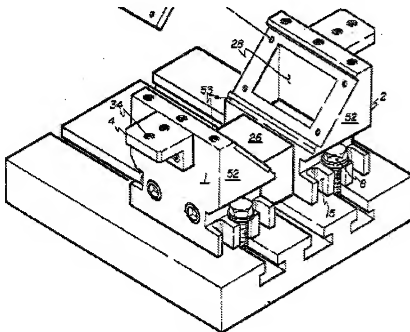
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over George (USPN 4,445,678) in view of Bassoff (USPN 3,267,581).

George discloses workpiece holder (see partial figure 4 below) having a base plate (26) which is slidable and opposed jaws (52) which are slidable.

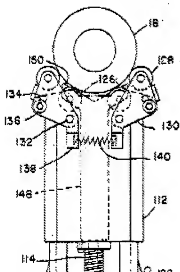


Partial view of figure 4 (George)

Although both the base and jaws are movable and slidable, the base plate does not cause the jaws to move dependent on the movable base plate.

Bassoff discloses a holding device (see partial view of figure 3 below) having levers with rollers (130, 128) (jaws) for holding the workpiece which are connected by a compression spring (140).

FIG.3.



Partial view of figure 3 (Bassoff)

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a spring like mechanism, as taught by Bassoff in the George holder to use the base plate to move the jaws because this would allow the holding of a greater variety of workpieces.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over George in view of Sano et al. (USPN 6,705,372).

George discloses workpiece holder (see figure 4) having a base plate (26) which is slidable and opposed jaws (52) which are slidable.

Although both the base and jaws are movable and slidable, the base plate does not cause the jaws to move dependent on the movable base plate.

Sano et al. discloses a tube guide (figure 7) having two guide claws (42 i.e. jaws) which have an angled side and a guide body (41) with a placement groove (41a i.e. base plate). In addition the tube guide has springs (43). The tube guide is adjustable by means of the springs to accommodate tubes of differing diameters. Figure 10 shows the plunger (104) and the jaws (101), which detect the height of the plunger with a tube holding sensor. Figure 11 shows a holding groove, which is provided between the guide clamps (101) and is continuous and flush and is formed in the fixed clamp body.

FIG. 7

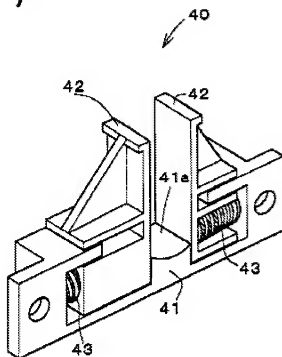


Figure 7 (Sano et al.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a spring like mechanism, as taught by Sano et al. in the George holder to use the base plate to move the jaws because this would allow the holding of a greater variety of workpieces.

Claims 1-12 & 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over George and Bassoff, as stated above and further in view of Baum (USPN 5,458,330).

George and Bassoff do not disclose the use of laser machining on a bat.

Baum discloses the use of laser cutting in the formation of a baseball logo.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify George and Bassoff to use a bat and laser machining as taught Baum because this is merely an application directed to a workpiece holder.

Intended use has been continuously held not to be germane to determining the patentability of the apparatus. In re Finsterwalder 168 USPQ 530, In re Casey 152 USPQ 235, Ex parte Masham 2 USPQ 2d 1647, Ex parte Thibault 164 USPQ 666.

Claims 1-12 & 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over George and Sano et al., as stated above and further in view of Baum (USPN 5,458,330).

George and Sano et al. do not disclose the use of laser machining on a bat.

Baum discloses the use of laser cutting in the formation of a baseball logo.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify George and Sano et al. to use a bat and laser machining as taught Baum because this is merely an application directed to a workpiece holder.

Intended use has been continuously held not to be germane to determining the patentability of the apparatus. In re Finsterwalder 168 USPQ 530, In re Casey 152 USPQ 235, Ex parte Masham 2 USPQ 2d 1647, Ex parte Thibault 164 USPQ 666.

Claims 13, 31-33 & 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over George, Bassoff and Baum, as stated above and further in view of Comulada et al. (USPN 5,905,566).

George, Bassoff and Baum do not specifically teach leveling.

Comulada et al. discloses the laser ablation of a substrate, which uses a chuck with a leveling device.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use laser machining as taught by Comulada et al. on the article in the George, Bassoff and Baum workpiece because it is merely a type of fabrication.

Intended use has been continuously held not to be germane to determining the patentability of the apparatus. In re Finsterwalder 168 USPQ 530, In re Casey 152 USPQ 235, Ex parte Masham 2 USPQ 2d 1647, Ex parte Thibault 164 USPQ 666.

Claims 13, 31-33 & 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over George, Sano et al. and Baum, as stated above and further in view of Comulada et al.

George, Sano et al. and Baum do not specifically teach leveling.

Comulada et al. discloses the laser ablation of a substrate, which uses a chuck with a leveling device.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use laser machining as taught by Comulada et al. on the article in the George, Sano et al. and Baum workpiece because it is merely a type of fabrication.

Intended use has been continuously held not to be germane to determining the patentability of the apparatus. In re Finsterwalder 168 USPQ 530, In re Casey 152 USPQ 235, Ex parte Masham 2 USPQ 2d 1647, Ex parte Thibault 164 USPQ 666.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over George, Bassoff, as stated above and further in view of Wilkin et al. (USPN 3,842,957) and Comulada et al.

George and Bassoff do not disclose the marking of a bat.

Wilkin et al. discloses the marking of a bat.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify George and Bassoff to use a bat and marking as taught Wilkin et al. because this is merely an application directed to a workpiece holder.

George, Bassoff and Wilkin et al. do not specifically teach leveling.

Comulada et al. discloses the laser ablation of a substrate, which uses a chuck with a leveling device.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use laser machining as taught by Comulada et al. on the article in the George, Bassoff and Wilkin et al. workpiece because it is merely a type of fabrication.

Intended use has been continuously held not to be germane to determining the patentability of the apparatus. In re Finsterwalder 168 USPQ 530, In re Casey 152 USPQ 235, Ex parte Masham 2 USPQ 2d 1647, Ex parte Thibault 164 USPQ 666.

Claim34 is rejected under 35 U.S.C. 103(a) as being unpatentable over George, Sano et al., as stated above and further in view of Wilkin et al. and Comulada et al.

George and Sano et al. do not disclose the marking of a bat.

Wilkin et al. discloses the marking of a bat.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify George and Sano et al. to use a bat and marking as taught Wilkin et al. because this is merely an application directed to a workpiece holder.

George, Sano et al. and Wilkin et al. do not specifically teach leveling.

Comulada et al. discloses the laser ablation of a substrate, which uses a chuck with a leveling device.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use laser machining as taught by Comulada et al. on the article in the George, Sano et al. and Wilkin et al. workpiece because it is merely a type of fabrication.

Intended use has been continuously held not to be germane to determining the patentability of the apparatus. In re Finsterwalder 168 USPQ 530, In re Casey 152 USPQ 235, Ex parte Masham 2 USPQ 2d 1647, Ex parte Thibault 164 USPQ 666.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Alexandra Elve whose telephone number is 571-272-1173. The examiner can normally be reached on 7:30-4:00 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu B. Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 13, 2009.

/M. Alexandra Elve/
Primary Examiner, Art Unit 3742

